

Effective 10/1/2016

54-8b-10 Imposing a surcharge to provide hearing and speech impaired persons with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.

- (1) As used in this section:
- (a) "Certified deaf or severely hearing or speech impaired person" means any state resident who:
 - (i) is so certified by:
 - (A) a licensed physician;
 - (B) an otolaryngologist;
 - (C) a speech language pathologist;
 - (D) an audiologist; or
 - (E) a qualified state agency; and
 - (ii) qualifies for assistance under any low income public assistance program administered by a state agency.
 - (b) "Certified interpreter" means a person who is a certified interpreter under Title 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.
 - (c)
 - (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf or severely hearing or speech impaired person to use the telephone.
 - (ii) "Telecommunication device" includes:
 - (A) telecommunication devices for the deaf (TDD);
 - (B) telephone amplifiers;
 - (C) telephone signal devices;
 - (D) artificial larynxes; and
 - (E) adaptive equipment for TDD keyboard access.
- (2) The commission shall hold hearings to establish a program whereby a certified deaf or severely hearing or speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.
- (3)
- (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf or severely hearing or speech impaired person with a normal hearing person by way of telecommunication devices designed for that purpose.
 - (b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.
- (4)
- (a) The commission shall impose a surcharge on each residential and business access line of each customer of local-exchange telephone service in this state, and each residential and business telephone number of each customer of mobile telephone service in this state, not including a telephone number used exclusively to transfer data to and from a mobile device, which shall be collected by the telecommunications corporation providing public telecommunications service to the customer, to cover the costs of:
 - (i) the program described in Subsection (2); and
 - (ii) payments made under Subsection (5).
 - (b) The commission shall establish by rule the amount to be charged under this section, provided that:

- (i) the surcharge does not exceed 20 cents per month for each residential and business access line for local-exchange telephone service, and for each residential and business telephone number for mobile telephone service, not including a telephone number used exclusively to transfer data to and from a mobile device; and
 - (ii) if the surcharge is related to a mobile telecommunications service, the surcharge may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.
 - (c) The telecommunications corporation shall collect the surcharge from its customers and transfer the money collected to the commission under rules adopted by the commission.
 - (d) The surcharge shall be separately identified on each bill to a customer.
- (5)
- (a) Money collected from the surcharge imposed under Subsection (4) shall be deposited in the state treasury as dedicated credits to be administered as determined by the commission.
 - (b) These dedicated credits may be used only:
 - (i) for the purchase, maintenance, repair, and distribution of telecommunication devices;
 - (ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;
 - (iii) to reimburse telephone corporations for the expenses incurred in collecting and transferring to the commission the surcharge imposed by the commission;
 - (iv) for the general administration of the program;
 - (v) to train persons in the use of telecommunications devices; and
 - (vi) by the commission to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:
 - (A) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as certified interpreters; or
 - (B) the Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.
 - (c)
 - (i) The commission shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of money under Subsection (5)(b)(vi).
 - (ii) In the initial rulemaking to determine the administration of money under Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.
 - (d) Money received by the commission under Subsection (4) is nonlapsing.
- (6)
- (a) The telephone surcharge need not be collected by a telecommunications corporation if the amount collected would be less than the actual administrative costs of the collection.
 - (b) If Subsection (6)(a) applies, the telecommunications corporation shall submit to the commission, in lieu of the revenue from the surcharge collection, a breakdown of the anticipated costs and the expected revenue from the collection, showing that the costs exceed the revenue.
- (7) The commission shall solicit the advice, counsel, and physical assistance of severely hearing or speech impaired persons and the organizations serving them in the design and implementation of the program.

Amended by Chapter 271, 2016 General Session